

AMENDED IN SENATE AUGUST 7, 2006
AMENDED IN ASSEMBLY FEBRUARY 14, 2006
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1797

Introduced by Assembly Member Bermudez

January 9, 2006

An act to amend Section 71601 of the Government Code, relating to trial courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1797, as amended, Bermudez. Trial courts: limited-term employees.

Existing law defines the term “trial court employee” for purposes of the Trial Court Employment Protection and Governance Act. In defining this term, the act provides that any temporary employee shall not be employed in the trial court for a period exceeding 180 calendar days, except for court reporters under certain conditions.

This bill would provide that a limited-term employee is a regular trial court employee if the assignment, position, or project of the limited-term employee is an integral part of the long-term, regular work of the trial court. The bill would state legislative intent to prohibit the trial courts from classifying long-term employees that are performing the regular work of the trial courts as limited-term employees.

This bill would additionally provide, in Los Angeles County, that *a limited-term employee, including, on and after November 1, 2007*, any limited-term law clerk ~~shall not be employed in the trial court for a period exceeding 180 calendar days. The bill would further provide~~

~~that any such limited-term law clerk employed for more than 180 calendar days, is a regular trial court employee if the assignment, position, or project of the limited-term employee is an integral part of the long-term, regular work of the trial court.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 71601 of the Government Code is
2 amended to read:

3 71601. For purposes of this chapter, the following definitions
4 apply:

5 (a) "Appointment" means the offer to, and acceptance by, a
6 person of a position in the trial court in accordance with this
7 chapter and the trial court's personnel policies, procedures, and
8 plans.

9 (b) "Employee organization" means either of the following:

10 (1) Any organization that includes trial court employees and
11 has as one of its primary purposes representing those employees
12 in their relations with that trial court.

13 (2) Any organization that seeks to represent trial court
14 employees in their relations with that trial court.

15 (c) "Hiring" means appointment as defined in subdivision (a).

16 (d) "Mediation" means effort by an impartial third party to
17 assist in reconciling a dispute regarding wages, hours, and other
18 terms and conditions of employment between representatives of
19 the trial court and the recognized employee organization or
20 recognized employee organizations through interpretation,
21 suggestion, and advice.

22 (e) "Meet and confer in good faith" means that a trial court or
23 representatives as it may designate, and representatives of
24 recognized employee organizations, have the mutual obligation
25 personally to meet and confer promptly upon request by either
26 party and continue for a reasonable period of time in order to
27 exchange freely information, opinions, and proposals, and to
28 endeavor to reach agreement on matters within the scope of
29 representation. The process shall include an adequate amount of
30 time for the resolution of impasses where specific procedures for

1 resolution are contained in this chapter or in a local rule, or when
2 the procedures are utilized by mutual consent.

3 (f) “Personnel rules,” “personnel policies, procedures, and
4 plans,” and “rules and regulations” mean policies, procedures,
5 plans, rules, or regulations adopted by a trial court or its designee
6 pertaining to conditions of employment of trial court employees,
7 subject to meet and confer in good faith.

8 (g) “Promotion” means promotion within the trial court as
9 defined in the trial court’s personnel policies, procedures, and
10 plans, subject to meet and confer in good faith.

11 (h) “Recognized employee organization” means an employee
12 organization that has been formally acknowledged to represent
13 trial court employees by the county under Sections 3500 to 3510,
14 inclusive, prior to the implementation date of this chapter, or by
15 the trial court under Rules 2201 to 2210, inclusive, of the
16 California Rules of Court, as those rules read on April 23, 1997,
17 Sections 70210 to 70219, inclusive, or Article 3 (commencing
18 with Section 71630) of this chapter.

19 (i) “Subordinate judicial officer” means an officer appointed to
20 perform subordinate judicial duties as authorized by Section 22
21 of Article VI of the California Constitution, including, but not
22 limited to, a court commissioner, probate commissioner, referee,
23 traffic referee, juvenile referee, and judge pro tempore.

24 (j) “Transfer” means transfer within the trial court as defined
25 in the trial court’s personnel policies, procedures, and plans,
26 subject to meet and confer in good faith.

27 (k) “Trial court” means a superior court.

28 (l) “Trial court employee” means a person who is both of the
29 following:

30 (1) Paid from the trial court’s budget, regardless of the funding
31 source. For the purpose of this paragraph, “trial court’s budget”
32 means funds from which the presiding judge of a trial court, or
33 his or her designee, has authority to control, authorize, and direct
34 expenditures, including, but not limited to, local revenues, all
35 grant funds, and trial court operations funds.

36 (2) Subject to the trial court’s right to control the manner and
37 means of his or her work because of the trial court’s authority to
38 hire, supervise, discipline, and terminate employment. For
39 purposes of this paragraph only, the “trial court” includes the
40 judges of a trial court or their appointees who are vested with or

1 delegated the authority to hire, supervise, discipline, and
2 terminate.

3 (m) (1) A person is a “trial court employee” if and only if
4 both paragraphs (1) and (2) of subdivision (l) are true irrespective
5 of job classification or whether the functions performed by that
6 person are identified in Rule 810 of the California Rules of
7 Court. The phrase “trial court employee” includes those
8 subordinate judicial officers who satisfy paragraphs (1) and (2) of
9 subdivision (l). The phrase “trial court employee” does not
10 include temporary employees hired through agencies, jurors,
11 individuals hired by the trial court pursuant to an independent
12 contractor agreement, individuals for whom the county or trial
13 court reports income to the Internal Revenue Service on a Form
14 1099 and does not withhold employment taxes, sheriffs, and
15 judges whether elected or appointed. Any temporary employee,
16 whether hired through an agency or not, shall not be employed in
17 the trial court for a period exceeding 180 calendar days, except
18 that for court reporters in a county of the first class, a trial court
19 and a recognized employee organization may provide otherwise
20 by mutual agreement in a memorandum of understanding or
21 other agreement.

22 ~~(2) In Los Angeles County, any limited-term law clerk,~~
23 ~~whether hired through an agency or not, shall not be employed in~~
24 ~~the trial court for a period exceeding 180 calendar days. Any~~
25 ~~such limited-term law clerk employed for more than 180 calendar~~
26 ~~days is a regular trial court employee.~~

27 ~~(3)~~

28 (2) A limited-term employee is a regular trial court employee
29 if the assignment, position, or project of the limited-term
30 employee is an integral part of the long-term, regular work of the
31 trial court.

32 *(3) In Los Angeles County, a limited-term employee, including*
33 *any limited-term law clerk, is a regular trial court employee if*
34 *the assignment, position, or project of the limited-term employee*
35 *is an integral part of the long-term, regular work of the trial*
36 *court. This paragraph shall apply to limited-term law clerks*
37 *beginning November 1, 2007. With respect to all other*
38 *limited-term employees, this paragraph shall apply beginning*
39 *January 1, 2007.*

1 SEC. 2. It is the intent of the Legislature in enacting this act
2 to prohibit the trial courts from classifying long-term employees
3 that are performing the regular work of the trial courts as
4 limited-term employees.

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